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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,211	09/28/2001	Karl H. Allen	042390P11777	7896

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EXAMINER

GREENE, DANIEL L

ART UNIT PAPER NUMBER

3621

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/967,211

Applicant(s)

ALLEN, KARL H.

Examiner

Daniel L. Greene

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/12/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 11/12/2005, with respect to the rejection(s) of claim(s) 1 and 17 under Maes et al. U.S. Patent 6,016,476 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of MARTIN et al. US 2002/0087354 A1.
2. Claims 1-25 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maes et al. U.S. Patent, 6,016,476 [Maes], and in further view of Martin et al. Pub. No: US 2002/0087354 A1 [Martin]

Maes does not expressly show health-related transactions or healthcare devices but does disclose that the present invention [6,016,476] can be used by medical doctors. Col. 11, lines 55-57.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The receiving a request

Art Unit: 3621

to perform a transaction from a portable device to a remote site, receiving biometric data, determining validity of information associated with a user, and if valid, sending enabling information to perform the transaction steps would be performed the same regardless of whether the transaction was health related, business related, etc. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to receiving a request to perform a transaction from a portable device to a remote site, receiving biometric data, determining validity of information associated with a user, and if valid, sending enabling information to perform the transaction steps would be done regardless if it was health or business related because such modifiers do not functionally relate to the steps in the method claimed and because the subjective interpretation of the modifiers do not patentably distinguish the claimed invention.

3. As per claims 1, 10, and 17:

Maes discloses:

receiving a request from a portable device to perform a transaction in real-time across a network pathway from the portable device to a remote information site; Col. 8, lines 10-67.

receiving biometric data from the portable device', Col. 8, lines 10-67.

Art Unit: 3621

determining whether corresponding biometric data is stored; Col. 10, lines 49-67.  
if corresponding biometric data is stored, identifying a user associated with the  
corresponding biometric data; Col. 10, lines 49-67.

if the credential information is valid, sending to the portable device, enabling  
information for performing the transaction. Col. 10, lines 49-67.

Maes discloses the claimed invention except for the checking a credential service for professional license, professional license validity, and/or professional certification credential information associated with the identified user to determine whether the user is permitted to perform the requested health-related transaction. Martin teaches that it is known in the art to provide for the checking a credential service for professional license, professional license validity, and/or professional certification credential information associated with the identified user to determine whether the user is permitted to perform the requested health-related transaction. Para. 0023-0025. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the authorization process of Maes with the checking a credential service for professional license, professional license validity, and/or professional certification credential information associated with the identified user to determine whether the user is permitted to perform the requested health-related transaction of Martin, in order to add another layer of validation to the authentication of the doctor that may of not been included in the biometric system presented by Maes.

Art Unit: 3621

As per claims 2, 11, and 18:

Maes further discloses:

wherein the request includes login information to initiate a session and the enabling information includes session information. Col. 9-10, lines 1-67.

As per claims 3, 12, and 19:

Maes further discloses:

wherein the determining of validity of credential information includes sending a request for a credential check to a credential service and receiving a credential check result from the credential service. Col. 10, lines 18-30.

As per claims 4, 13, and 20:

Maes further discloses:

including requiring the login information after a pre-designated time period of inactivity. Col. 8, lines 25-30.

As per claims 5, 14, and 21:

Maes further discloses:

wherein the enabling information includes the credential information for forwarding to the remote information site. Col. 8, lines 1-67.

As per claims 6, 15, and 22:

Maes further discloses:

wherein the determining of validity of credential information includes comparing the credential information to previously determined credential information for a current session. Col. 8, lines 1-67.

As per claims 7, 16, and 23:

Maes discloses the claimed invention except for wherein the biometric data includes voice data, digital electronic signature data, fingerprint image data, or eye image data. However, Maes does teach about the use of biometric data to provide biometric verification of the user. Col. 3, lines 18-21.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include wherein the biometric data includes voice data, digital electronic signature data, fingerprint image data, or eye image data since it is known in the art that wherein the biometric data includes voice data, digital electronic signature data, fingerprint image data, or eye image data.

As per claims 8 and 24:

Maes further discloses:

wherein if corresponding biometric data is not stored, further including denying the requested health-related transaction. Col. 12, lines 50-55.

As per claims 9 and 25:

Maes discloses the claimed invention, as discussed above, except for the step of wherein the receiving biometric data occurs at pre-designated intervals of time.

However, Maes does teach about the timing of when certain actions and responses occur. Since the applicant has not disclosed that wherein the receiving biometric data occurs at pre-designated intervals of time solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Maes will perform the invention as claimed by the applicant with any means, method, or product to wherein the receiving biometric data occurs at pre-designated intervals of time.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.



***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newman et al. U.S. Patent 6,035,276 MEDICAL PRACTITIONER CREDENTIALING SYSTEM.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone

Art Unit: 3621

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JAMES P. TRAMMELL  
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Daniel L. Greene  
Examiner  
Art Unit 3621

1/15/2005